IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6704 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RATANBEN ROSANBHAI ADODIYA

Versus

DISTRICT MAGISTRATE

Appearance:

MR ANIL S DAVE for Petitioner

Mr.H.L.Jani, learned A.G.P. for the respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 03/03/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the order dt.23.8.99 passed by the District Magistrate, Bhavnagar whereby the petitioner has been detained under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985. She is lodged in the Sabarmati Central Jail, Ahmedabad. The grounds enclosed with the detention order show that 9 cases have been registered against the petitioner under the Prohibition

Act during the period 12.1.99 and 22.7.99. Statements of 3 witnesses have also been recorded on 12.8.99 and all these 3 witnesses have deposed against the petitioner's anti social activities. The detaining authority has found the petitioner to be a bootlegger and has also invoked the provisions of S.9(2) of the Act for the purpose of keeping the identity of the witnesses undisclosed. It has been mentioned that the petitioner is active as a bootlegger and her related anti social activities cannot be checked unless she is detained. Learned counsel for the petitioner has argued that no case of breach of public order is made out in the facts of the present case. Learned A.G.P. has failed to show as to how the grounds of detention as mentioned in the grounds of detention make out a case of breach of public order. As per the various decisions of the Supreme Court, it is settled law that on the basis of the allegations as are made out in this case in the grounds of detention, no case of breach of public order can be said to have been made out, even if all the allegations are taken to be true. In absence of any case of breach of public order, the detention cannot be justified. It is not a case of breach of public order. At the most it can be said to be a case of breach of law and order.

Accordingly the impugned detention order dt.23.8.99 passed by the District Magistrate, Bhavnagar cannot be sustained in the eye of law.The same is hereby quashed and set aside. It is directed that the petitioner shall be released forthwith if not required to be detained under any other detention order or in any other criminal case.This Special Civil Application is allowed. Rule is made absolute.

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